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Paper No. 7

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Technology Center 2100

In re Application of: Weng)
Application No. 09/395,845) DECISION ON PETITION TO
Attorney Docket No. 101058-0042) WITHDRAW HOLDING OF
Filed: September 14, 1999) ABANDONMENT UNDER 37 CFR
For: RANDOMIZER SYSTEMS FOR) §1.181
PRODUCING MULTIPLE-SYMBOL)
RANDOMIZING SEQUENCES

This is a decision on the petition to withdraw the holding of abandonment of the instant application, filed on May 11, 2004, under 37 CFR §1.181.

The Petition is GRANTED.

The instant application became abandoned for failure to timely respond to the non-final Office action mailed September 10, 2003. A grantable petition must include a copy of the response and proof of timely filing of the response. A stamped post card receipt with an indication of the documents filed therewith, in accordance with MPEP § 203.08 and § 508, is acceptable. No fee is required.

A review of the file record shows that a non-final Office action was mailed on September 10, 2003, setting a three month shortened statutory period for response. Applicant's response, acknowledged as having been received in the PTO on November 13, 2003, is not of record in the application file and cannot be located.

Applicant has provided evidence on March 26, 2004 and in the petition of May 11, 2004 that includes: a copy of the response with express certificate of mailing; as well as a post card receipt identifying the response and which includes a USPTO receipt date of November 13, 2003.

MPEP § 203.08 states in relevant part:

< A >stamped< postcard receipt for replies to Office actions, adequately and specifically identifying the papers filed, will be considered prima facie proof of receipt of such papers. >See MPEP § 503.< Where such proof indicates the timely filing of a reply, the submission of a copy of the postcard with a copy of the reply will ordinarily obviate the need for a petition to revive.

In addition, MPEP § 503 states in part:

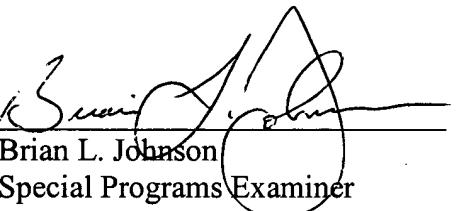
The identifying data on the postcard should be so complete as to clearly identify the item for which >a< receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the

type of paper being filed, e.g., new application, affidavit, **amendment**, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., **and the number of pages being submitted**. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

Since all of the criteria set forth above have been met, the petition is **GRANTED**.

Applicant is reminded of the requirements of MPEP § 503 to ensure future submissions of proof of filing are complete with all available information of the identifying data on the postcard as outlined above, to ensure a complete and proper *prima facie* showing of proof of filing of such papers.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the holding of abandonment (restore the instant application to pending status), to enter the response (copy, filed with the instant petition, dated November 13, 2003). The application will then be forwarded to the examiner for prompt action on the merits.


11/2/04
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